

PAYMENT PROPOSAL

Introduction

Employers have a legal obligation to voluntarily report and pay contributions and withholdings when due. However, the Employment Development Department recognizes that there are situations where it is in the best interest of the taxpayers of California that EDD accept a payment proposal to liquidate debts due to the state over a period of time. Please consider the following information in order to determine whether a payment proposal is necessary.

NOTE: All employers who fail to file and pay liabilities timely are subject to the filing of a Notice of State Tax Lien. This lien is issued to protect the interest of the State of California and is not considered involuntary collection action. The filing of a State Tax Lien is an automatic process and cannot be stopped unless payment in full is received.

Resources Available to Pay the Liability

Do you have: (1) sufficient money of your own to pay this liability; (2) can you borrow the money from other sources to pay the liability; (3) are there other resources available to pay the liability which will not force the closure of your business? If yes, you must make arrangements to pay the entire amount due within 30 days.

Informal Payment Proposal

If immediate payment is not possible and the liability due is less than \$25,000 for an active business, or \$10,000 for an inactive business, typically a payment plan can be established. If you have an established history of timely reporting and payments with the department and are not insolvent or bankrupt, we can negotiate a payment plan that is mutually acceptable. EDD will require a good faith payment and all delinquent Annual Reconciliation Statement(s) (DE 7) and Quarterly Wage and Withholding Report(s) (DE 6). We will also ask that you sign a Payment Proposal Agreement (DE 927). The payment plan will be in effect 10 working days after a verbal agreement has been established and the balance due must be paid in full on or before 1 year from that date.

Requesting a Formal Payment Proposal

If you are unable to reach an agreement for an informal payment proposal or if the liability is over \$25,000 for an active business or, \$10,000 for an inactive business, you

will need to enter into a formal payment proposal. Submit a written request for a formal payment proposal, addressed to the office that is handling your account. Your request should include the following:

- (1) How the delinquent liability was established and what action has been taken to resolve the liability. Also submit your proposed payment schedule and how you will keep current on future financial obligations to the EDD.
- (2) A good faith payment.
- (3) All delinquent Annual Reconciliation Statement(s) (DE 7) and Quarterly Wage and Withholding Report(s) (DE 6).
- (4) Financial information on business as well as personal assets. Financial Statement for Individuals (DE 926B) and Financial Statement for Businesses (DE 926C) are provided but any recent financial statement is acceptable. Corporations and all corporate officers, individual business owners, partnerships and each general partner are required to complete financial statements. Corporate officers should provide personal financial information as well as information involving the corporation.
- (5) Corporations, Limited Liability Companies (LLC) and Limited Liability Partnerships (LLP) may be required to complete a Corporate Information Questionnaire (DE 204). The form establishes the responsible persons of the corporation, LLC or LLP. Responsible persons who willfully fail to pay contributions, withholdings, penalties and interest on the date they become delinquent, may be held personally liable.

Provide Supportive Documentation

It is your responsibility to provide the information necessary to substantiate your inability to pay the full amount due. Provide sufficient documentation such as loan denials from financial institutions, tax returns, the past three months bank statements, and if available, CPA financial reports, etc.

We may request documentation to support your entries on the financial statement. For instance, if you state that your income is \$2,500 per month, we may require proof of that income. If your utility bill is \$200 per month, we may request copies of your utility bills.

We may also request a Credit Bureau Report to help clarify your financial situation.

The Agreement

In negotiating the payment agreement, numerous factors are considered. However, the principal factor is whether the interests of the taxpayers of California would be best served by accepting the payment proposal. Generally, this occurs when a payment proposal will allow a business that would otherwise be forced to close, to continue in operation and to pay all debts owed to the state.

Your past history with our Department should indicate your ability and willingness to honor the terms of the agreement. This means you have an established history of timely reporting and payments with us.

Once an agreement is reached, the plan will remain in effect for the period negotiated unless you:

- (1) Default on the plan. This includes nonpayment, late payment, paying less than agreed, or checks returned by your bank unpaid.
- (2) Incur additional liability after the agreement is negotiated. Additional liability usually arises because you do not pay current taxes. These conditions would not apply if the additional liability results from a non-fraudulent assessment covering a prior period.
- (3) Fail to file required tax forms on a timely basis without good cause.
- (4) Fail to submit timely DE 88 deposits and Interim Contribution Returns submitted on Form DE 2858. (When specifically required as a condition of the agreement.)
- (5) Are found to have intentionally provided false, materially inaccurate or incomplete information. This does not apply to simple mistakes.

Finalizing The Payment Proposal

When all the necessary information, forms, and supporting documentation has been received, we will review the data and contact you to finalize the payment proposal agreement or, if appropriate, request payment in full.

When the proposal has been accepted, we will complete and forward a Payment Proposal Agreement (form DE 927). You must return the signed form and initial payment to your EDD representative within **10 working days**. The payment proposal will not be in effect until it is received.

Additional Information

If we have entered into a valid payment proposal and an **audit assessment** is issued, you should be prepared to renegotiate your payment plan. The exception to this general rule would be if the auditor applied the penalty under Section 1128 of the California Unemployment Insurance Code (CUIC) in the assessment. In most cases, you should be prepared to pay this assessment in full.

If you have either a significant improvement or deterioration in your financial circumstances during the repayment period, notify your EDD representative immediately. When you voluntarily provide updated financial information, the terms of the agreement can be renegotiated. If your EDD representative determines during a periodic review your financial condition has improved and you did not notify us, the payment agreement will be voided immediately.

Please note that even if the proposal is accepted, offsets of any State refunds will be enforced during the payment term. Any payments received from these sources will be in addition to the proposal payments.

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.